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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	CASE NO. 1:23-CR-00141-JLT-SKO
Plaintiff,	STIPULATION TO CONTINUE DATE FOR STATUS CONFERENCE
v.	
CLAUS MARCUSLUND,	DATE: December 6, 2023 TIME: 1:00 p.m. COURT: Hon. Sheila K. Oberto
Defendant.	

This case is scheduled for a status conference on September 20, 2023, but the parties have agreed to move this hearing to December 6, 2023.

Ends-of-justice continuances are excludable only if "the judge granted such continuance on the basis of [her] findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A). Moreover, no such period is excludable unless "the court sets forth, in the record of the case, either orally or in writing, its reason or finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial." *Id.*

Recently, the Ninth Circuit enumerated a "non-exhaustive" list of seven factors it found to be "relevant" in considering ends-of-justice Speedy Trial Act continuances. *United States v. Olsen*, 21 F.4th 1036, 1047 (9th Cir. 2022). That non-exhaustive list includes: (1) whether a defendant is detained pending trial; (2) how long a defendant has been detained; (3) whether a defendant has invoked speedy

1   trial rights since the case's inception; (4) whether a defendant, if detained, belongs to a population that is

2   particularly susceptible to complications if infected with the [COVID-19] virus; (5) the seriousness of

3   the charges a defendant faces, and in particular whether the defendant is accused of violent crimes; (6)

4   whether there is a reason to suspect recidivism if the charges against the defendant are dismissed; and

5   (7) whether the district court has the ability to safely conduct a trial. *Id.*

6   In light of the factors above, this court should consider the following case-specific facts in

7   finding excludable delay appropriate in this particular case under the ends-of-justice exception, §

8   3161(h)(7). When continued, this court should designate a new date for the hearing. *United States v.*

9   *Lewis,* 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be "specifically

10 limited in time").

11   Plaintiff United States of America, by and through its counsel of record, and defendant, by and

12 through defendant's counsel of record, accordingly stipulate as follows:

13   1.   By previous order this matter was set for a status conference hearing on September 20,

14 2023. The Court more recently has invited a continuance of this hearing if counsel do not believe that

15 anything substantial can be accomplished at the currently scheduled hearing.

16   2.   By this stipulation, the parties agree that the next status conference be scheduled for

17 December 6, 2023, and to exclude time between September 20, 2023, and December 6, 2023, under 18

18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(i), (ii) and (iv).

19   3.   The parties agree, and request that the Court find the following:

20   a)   A continuance is required to permit defense counsel to review discovery that has

21   been provided and to review evidence at the HSI office in Fresno, California. The defendant also

22   requests time to consider whether any motions can be filed and/or how best to defendant against

23   the pending charges.

24   b)   The government does not object to the continuance and joins in the request.

25   c)   Based on the above-stated findings, the ends of justice served by continuing the

26   case as requested outweigh the interest of the public and the defendant in a trial within the

27   original date prescribed by the Speedy Trial Act.

28   d)   For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,

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et seq., within which trial must commence, the time period from September 20, 2023, to December 6, 2023, inclusive, is deemed excludable under 18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(i), (ii) and (iv) because it results from a continuance granted by the Court at the request of the parties on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

4.   Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

IT IS SO STIPULATED.

Dated: September 6, 2023   PHILLIP A. TALBERT
                                                  United States Attorney

                                                  /s/ David Gappa
                                                  DAVID L. GAPPA
                                                  Assistant United States Attorney

Dated: September 7, 2023   /s/ ERIN SNIDER
                                                  ERIN SNIDER
                                                  COUNSEL FOR
                                                  CLAUS MARCUSLUND

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
 	
                Plaintiff,
 	
          v.
 	
CLAUS MARCUSLUND,
 	
              Defendant.
	CASE NO. 1:23-CR-00141-JLT-SKO
	
	ORDER
	
	DATE: December 6, 2023
	TIME: 1:00 p.m.
	COURT: Hon. Sheila K. Oberto

ORDER

The court has reviewed and considered the stipulation filed by the parties on September 7, 2023, and also reviewed the record of this case. For the reasons stated in the stipulation the court finds good cause for rescheduling the hearing to December 6, 2023. The court also finds that the time between September 20, 2023, and December 6, 2023, under 18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(i), (ii) and (iv) shall be excluded from Speedy Trial Act time calculations.

IT IS SO ORDERED.

DATED: 9/8/2023

Sheila K. Oberto
THE HONORABLE SHEILA K. OBERTO
UNITED STATES MAGISTRATE JUDGE

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